

United States District Court  
For the Northern District of California

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10 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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ROBERT GUICHARD,

Plaintiff,

No. C 04-4363 JSW

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v.

**ORDER DENYING PLAINTIFF'S  
MOTION FOR A PRELIMINARY  
INJUNCTION PENDING APPEAL**

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MANDALAY PICTURES, LLC, d/b/a  
MANDALAY ENTERTAINMENT, METRO-  
GOLDWYN-MAYER STUDIOS, INC., et al.,

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Defendants.

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Now before the Court is the *ex parte* motion by Plaintiff Robert Guichard for a preliminary injunction pending appeal of this Court's March 22, 2005 order denying Plaintiff's motions for a preliminary injunction. The present motion functions as a motion for reconsideration of the Court's earlier ruling, denying the preliminary injunction under both the Lanham Act and Business and Professions Code section 17200 *et seq.* on the grounds that Plaintiff had shown neither likelihood of success on the merits of his claims nor irreparable harm. Plaintiff is correct in his contention that the standard for a motion for injunction pending appeal is essentially identical to the standard governing the issuance of a preliminary injunction.

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1 (See Motion at 2, citing *Hilton v. Braunschweig*, 481 U.S. 770, 776 (1987); *Los Angeles Memorial*  
2 *Coliseum Comm'n v. National Football League*, 634 F.2d 1197, 1200 (9th Cir. 1980).) The  
3 criteria for a preliminary injunction pending appeal are: (1) a strong likelihood of success on the  
4 merits; (2) the possibility of irreparable injury to the plaintiff if the preliminary relief is not  
5 granted; (3) the balance of hardships tips in favor of the plaintiff; and (4) the advancement of  
6 the public interest. *Id.*

7 On March 22, 2005, the Court determined that Plaintiff was not able to demonstrate  
8 likelihood of success on the merits of his claims or that he will be irreparably harmed, and  
9 therefore denied his motion for a preliminary injunction. Similarly, nothing in the current  
10 motion before the Court indicates that Plaintiff has met the burden for a preliminary injunction.  
11 Therefore, Plaintiff's motion for a preliminary injunction pending appeal is HEREBY DENIED.

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13 **IT IS SO ORDERED.**

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15 Dated: April 28, 2005

16 \_\_\_\_\_ /s/ Jeffrey S. White  
17 JEFFREY S. WHITE  
18 UNITED STATES DISTRICT JUDGE  
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